

REMARKS

Upon entry of this paper, claims 1, 3, 9, 16, and 18-20 have been amended, claims 2 and 15 have been canceled, and no claims have been added as new claims. Thus, claims 1 and 3-14, and 16-20 are presently pending in this application. No new matter has been added. The cancellation of claims 2 and 15 should in no way be construed to be an acquiescence to any of the rejections stated. Claims 2 and 15 are being canceled solely to expedite the prosecution of the present application. Applicant reserves the option to further prosecute the same or similar claims in the instant or a subsequent patent application.

Interview Summary

Applicant thanks the Examiner for conducting the telephone interview on August 4, 2005, where the claim set and prior art references were discussed. With regard to claim 1, it was determined that the kit claim, as amended, would be satisfactory to overcome the pending rejections. In addition, claims 9 and 20 were discussed, and it was determined that the amendments proposed during the interview and repeated in the present submission were likely sufficient to overcome the applied rejections and art. The primary amendment to claims 9 and 20 was the addition of the "slip joint" to the independent claim, based on canceled dependent claim 15.

Applicant would additionally like to request that if after the Examiner's review of the present amendment there are any additional issues that require discussion to enable the application to proceed to allowance, the Examiner please contact Applicant's below signed representative for a brief telephone interview to discuss such issues in an effort to speed prosecution of this case.

Drawings

The drawings were objected to under 37 CFR 1.83(a) as allegedly not showing every feature of the invention specified in the claims, specifically those features found in claim 11. Applicant respectfully submits that every feature of the invention specified in the claims is shown in the figures. Specifically, FIG. 1 shows a “drive 26”. The specification states that, “[t]he drive 26 can have multiple different configurations, including a chain drive, or a screw drive, as understood by one of ordinary skill in the art.” *See* Specification, page 7, lines 21-23. At the scale shown in the figures, the difference between the tiny links of a chain and the tiny threads of a screw would not be discernable beyond that which is shown. Accordingly, Applicant provided a depiction of a “drive”, which can be either screw or chain, and is clearly indicated as such in the specification, and would clearly be understood by one of ordinary skill in the art. Applicant therefore respectfully requests reconsideration and withdrawal of this objection.

Specification

The description of the drawings was objected to because of each of figures 4A, 4B and 4C required a separate description of what is shown in each figure. Such separate description has been provided herein. Accordingly, Applicant respectfully requests withdrawal of this objection.

Claim Objections

Claim 2 was objected to under 37 CFR 1.57(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 2 has been canceled. As such, any issues relating to dependency are now moot.

Claim Rejections under 35 USC § 112

Claims 1-20 were rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A number of claims throughout have been amended to address the various 35 U.S.C. 112, second paragraph rejections noted in the Office Action. Applicant believes that all rejections have been addressed with the indicated amendments. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim Rejections under 35 USC § 102

Claims 1-5, 8, 18 and 19

Claims 1-5, 8, 18 and 19 were rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 1,544,542 to Ainsworth.

With regard to claims 1-5, and 8, Applicant respectfully submits that said claims are not anticipated by Ainsworth. Specifically, the Office Action states that, “since the applicant is only claiming a kit for use with an outwardly swinging door, Ainsworth anticipates the claimed invention because it is capable of being used with outwardly swinging doors.” See OA, page 6.

However, Applicant is not merely claiming a kit in claim 1 for “use with” and outwardly swinging door. Claim 1 states, “A kit for *converting* a vertical garage door opener manufactured for opening a vertically sliding door to an outward door opener for opening an outwardly swinging door . . .” See amended claim 1. The kit converts a garage door opener for a different type of door, namely a vertically sliding door, to a door opener for an outwardly swinging door. The description of Ainsworth makes no mention of a door opener being capable of operation with a vertically sliding door. Furthermore, there is no mechanism described in Ainsworth that could operate, or could have previously operated, to open a vertically sliding door. In addition, there is no disclosure in Ainsworth of a “kit”. As such, Applicant respectfully submits that claims 1-5, and 8 are not anticipated by Ainsworth. Reconsideration and withdrawal of this rejection are respectfully requested.

With regard to claims 18 and 19, claim 18 has been amended to depend from claim 9. Accordingly, the present rejection no longer applies to claims 18 and 19, which no longer depend from claim 1.

Claims 9-13, 17 and 20

Claims 9-13, 17 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,324,787 to Burr. Independent claims 9 and 20 have been amended to include the element of a slip joint along a portion of the push bar that is coupled with a spring for automatically adjusting a length of the at least one push bar. Burr discloses no such element. In addition, Burr likewise makes no suggestion or teaching of such an element in association with the “support bars”. As such, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 9-12 and 20

Claims 9-12 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 1,700,848 to Martin. Again, independent claims 9 and 20 have been amended to include the element of a slip joint along a portion of the push bar that is coupled with a spring configured to automatically adjust a length of the at least one push bar. Martin discloses no such element. In addition, Martin likewise makes no suggestion or teaching of such an element in association with the “support bars”. As such, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim Rejections under 35 USC § 103*Claim 6*

Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ainsworth as applied to claims 1-5, 8, 18 and 19 above, and further in view of US Patent No. 1,570,641 to Perkins.

Claim 6 depends from claim 1. Ainsworth fails to anticipate claim 1 because Ainsworth fails to disclose a kit for converting a door opener manufactured for vertically sliding doors to a door opener for outwardly swinging doors. Perkins likewise fails to disclose a kit for converting a door opener manufactured for vertically sliding doors to a door opener for outwardly swinging doors. Accordingly, the combination of Ainsworth as applied to claim 1 in view of Perkins also

fails to disclose all elements of independent claim 1. Claim 6 incorporates the elements of claim 1, and as such the combination of Ainsworth and Perkins fails to disclose, teach, or suggest all elements required by claim 6. Applicant therefore respectfully requests reconsideration and withdrawal of this rejection.

Claim 7

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ainsworth as applied to claims 1-5, 8, 18 and 19 above, and further in view of US Patent No. 5,988,710 to Kortschot et al.

Claim 7 depends from claim 1, and is further directed toward the provision of a “slip joint coupled with a spring for automatically adjusting the length of the at least one push bar”. *See* claim 7. As discussed above, Ainsworth fails to disclose, teach, or suggest a kit for converting a door opener manufactured for vertically sliding doors to a door opener for outwardly swinging doors. Likewise, Kortschot fails to disclose a kit for converting a door opener manufactured for vertically sliding doors to a door opener for outwardly swinging doors.

In fact, Kortschot is directed toward a security bar, not a door opener. Therefore, Applicant respectfully submits that Kortschot represents non-analogous art. No one of ordinary skill in the art would look to a security bar to solve a problem relating to the proper alignment and degree of door closure that is solved by the introduction of the slip joint as described in the pending application.

As such the combination of Ainsworth and Kortschot is improper, but even if it were combinable fails to disclose, teach, or suggest all elements required by claim 1. Likewise, because claim 7 incorporates all elements of claim 1, the combination of Ainsworth and Kortschot fails to disclose, teach, or suggest all elements required by claim 7.

Additionally, claim 7 indicates the use of a spring for automatically adjusting the length of the at least one push bar. The security bar of Kortschot is not configured to automatically adjust in length. The spring in Kortschot is a compression spring, which works in conjunction with slots in the bar to adjust the length of the security bar. As stated clearly in Kortschot, “[b]y

inserting a pin 15 through one of the pairs of holes 9 in the top end of the center section and through the slots of the top section, the length by which the top section can extend can be controlled.” See Kortschot, col. 3, lines 56-59. This description does not disclose, teach, or suggest a spring and slip joint for automatically adjusting the length of the bar. As such, the combination of Ainsworth with Kortschot fails to disclose, teach, or suggest all elements of claim 7, which incorporates claim 1 through its dependency.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim 14

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burr as applied to claims 9-13, 17 and 20 above, and further in view of Perkins.

As discussed previously with regard to the rejection of claims 9-13, 17, and 20, independent claims 9 and 20 have been amended to include the element of a slip joint along a portion of the push bar that is coupled with a spring for automatically adjusting a length of the at least one push bar. Burr discloses no such element. In addition, Burr likewise makes no suggestion or teaching of such an element in association with the “support bars”. Likewise, Perkins fails to disclose a slip joint along a portion of the push bar coupled with a spring for automatically adjustment of the length of the bar. As such, the combination of Burr and Perkins fails to disclose, teach, or suggest all elements required by claim 14, which incorporates those elements of claim 9 discussed. Accordingly, Applicant requests reconsideration and withdrawal of this rejection.

Claims 15 and 16

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burr as applied to claims 9-13, 17 and 20 above, and further in view of Kortschot et al. Claim 15 has been canceled and therefore no longer stands rejected.

Again, as discussed previously with regard to the rejection of claims 9-13, 17, and 20, independent claims 9 and 20 have been amended to include the element of a slip joint along a portion of the push bar that is coupled with a spring for automatically adjusting a length of the at least one push bar. Burr discloses no such element. In addition, Burr likewise makes no suggestion or teaching of such an element in association with the “support bars”. Likewise, Kortschot fails to disclose a slip joint along a portion of the push bar coupled with a spring for automatically adjustment of the length of the bar, and is non-analogous art. As such, for the reasons previously stated, the combination of Burr and Kortschot fails to disclose, teach, or suggest all elements required by claim 16, which incorporates those elements of claim 9 discussed. Accordingly, Applicant requests reconsideration and withdrawal of this rejection.

Claim 14

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin as applied to claims 9-12 and 20 above, and further in view of Perkins.

Independent claims 9 and 20 have been amended to include the element of a slip joint along a portion of the push bar that is coupled with a spring configured to automatically adjust a length of the at least one push bar. Martin discloses no such element. In addition, Martin likewise makes no suggestion or teaching of such an element in association with the “support bars”. Furthermore, Perkins, as discussed previously, also fails to disclose the push bar that is coupled with a spring configured to automatically adjust a length of the at least one push bar. As such, the combination of Martin with Perkins fails to disclose, teach, or suggest all elements required by claim 14. Applicant therefore respectfully requests reconsideration and withdrawal of this rejection.

Claims 15 and 16

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin as applied to claims 9-12 and 20 above, and further in view of Kortschot et al. Claim 15 has been canceled and therefore no longer stands rejected.

Again, independent claims 9 and 20 have been amended to include the element of a slip joint along a portion of the push bar that is coupled with a spring configured to automatically adjust a length of the at least one push bar. Martin discloses no such element. In addition, Martin likewise makes no suggestion or teaching of such an element in association with the “support bars”. Furthermore, Kortschot, as discussed previously, also fails to disclose the push bar that is coupled with a spring configured to automatically adjust a length of the at least one push bar, and is non-analogous art. As such, the combination of Martin with Kortschot fails to disclose, teach, or suggest all elements required by claim 16. Applicant therefore respectfully requests reconsideration and withdrawal of this rejection.

With regard to all rejections under 35 U.S.C. 103, Applicant respectfully submits that unless a *prima facie* case of unpatentability with respect to known facts is established, Applicant is not obliged to proffer any evidence of nonobviousness. To establish a *prima facie* case there must be some suggestion or motivation, either in the prior art or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine multiple reference teachings. There must then be a reasonable expectation of success. Finally, the prior art reference or references (when combined) must teach or suggest all the claimed limitations.

As discussed, in all instances, the prior art reference or references, when combined, fail to teach or suggest all the claimed limitations. Accordingly, Applicant respectfully submits that the pending claims are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance. Applicant courteously solicits allowance of the claims in the form of a Notice of Allowance. Should there be any outstanding issues of patentability following the entry of this response, a telephone interview is respectfully requested to resolve such issues.

Applicant believes no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. JHD-001 from which the undersigned is authorized to draw.

Dated: August 9, 2005

Respectfully submitted,

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